

Applicants: Maureen J. Charron and Ellen B. Katz
Serial No.: 09/886,954
Filed: June 21, 2001
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REMARKS

Claims 1, 6-11 and 16-20 were pending in the subject application. Claims 11 and 16-20 are allowed. By this Amendment, applicants have canceled Claim 1 without prejudice or disclaimer, and amended claims 6 and 8. Accordingly, upon entry of this Amendment, Claims 6-11 and 16-20 will be pending.

Applicants maintain that the amendments to the claims do not raise an issue of new matter. Support for the amendments to Claims 6 and 8 can be found in the previous version of Claim 1 (now canceled) and at least in paragraphs [0042]-[0044] on pages 11-13, page 19, lines 12-14, and page 36, lines 21-23 of the present application, and on page 8, line 27 through page 9, line 14 of priority document U.S. Patent Application No. 09/516,493, filed March 1, 2000, which as indicated in the first paragraph of the subject specification, was expressly incorporated by reference when the subject application was filed. A copy of U.S. Patent Application No. 09/516,493 as filed on March 1, 2000 was submitted with the reply to the previous Office Action. Accordingly, entry of the amendments is respectfully requested.

Rejection under 35 U.S.C. §102(e)

Claims 1 and 6-10 are rejected under 35 U.S.C. 102(e) as anticipated by WO 01/90304 A2 (Human Genome Sciences, Inc.).

The Examiner indicated that the cited reference teaches an isolated clone having 61% identity to GLUTx protein, methods for determining whether a subject has defect in cell proliferation, and hyperproliferative disorders including cancers of the breast and endometrium. The Examiner maintained that the claimed method is anticipated because the nucleic acid probes and antibodies of the prior art would inherently cross-react with GLUTx protein or nucleic acid.

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The claimed invention requires detection of GLUTx expression. Claims 6 and 8 have hereinabove been amended to require that the claimed method is carried out either using an antibody that "specifically binds" to GLUTx protein (Claim 6) or using at least one nucleic acid probe that "specifically hybridizes" to nucleic acid encoding GLUTx (Claim 8). Applicants maintain that the claimed invention is not specifically taught or inherently disclosed by the cited reference. Accordingly, reconsideration and withdrawal of this ground of rejection are respectfully requested.

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CONCLUSIONS

In view of the amendments and remarks made hereinabove, applicants respectfully request that the Examiner reconsider and withdraw the rejection set forth in the March 25, 2005 Office Action and earnestly solicit allowance of all of the pending claims.

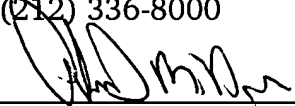
If there are any minor matters that prevent allowance of the subject application, applicants request that the Examiner telephone the attorney indicated below.

No fee is deemed necessary in connection with the filing of this response. However, if any fee is required to preserve the pendency of the subject application, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 01-1785.

Respectfully submitted,

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By 
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